

Message Text

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ORIGIN EB-07

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FM SECSTATE WASHDC

TO AMEMBASSY PANAMA IMMEDIATE

AMEMBASSY LIMA

INFO AMEMBASSY MEXICO

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E.O. 11652:N/A

TAGS: EAIR, PN, PE

SUBJECT: CIVAIR: PANAMA NOTE EXCHANGE

FOR STYLES, USDEL TO CIVAIR TALKS:

1. DEPARTMENT ENCOUNTERING DIFFICULTIES IN PROCEEDING WITH
PLANNED NOTE EXCHANGE WITH GOP. WITH PRESENT CONTENT TEXT
OF DECEMBER 18 MEMORANDUM OF CONSULTATIONS MUST BE PUBLISH-
ED UNDER TERMS USC SEC 112A.THIS PROVISION CALLS FOR PUB-
LICATION OF ALL US AGREEMENTS WITH FOREIGN GOVERNMENTS,
AND THIS IS CONSTRUED AS NECESSARILY INCLUDING ANY SIDE
MEMORANDA THAT MODIFY AGREEMENTS IN QUESTION. LAST PARA-
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GRAPH OF DECEMBER 18 MEMCON (CONCERNING 6TH FREEDOM TRAFFIC)

PERCEIVED BY STATE/L AS SUCH A SIDE AGREEMENT, THUS NECESSITATING PUBLICATION. HOWEVER, PARA 3 OF DECEMBER 18 MEMCON REFERS TO USG DISPOSITION "TO CONSIDER FAVORABLY IN FURTHER CONSULTATIONS THE REMOVAL OF THE TRAFFIC RIGHTS RESTRICTION BETWEEN MEXICO CITY AND LOS ANGELES ON THE NEW PANAMA ROUTE 3." IT IS INCREASINGLY FELT HERE (PRINCIPALLY BY JUDGE WEST, CAB) THAT PUBLIC DISCLOSURE OF THIS LANGUAGE MAY BE USED AGAINST USG BY MEXICO IN US-MEXICO CIVAIR CONSULTATIONS LATER THIS YEAR. MEXICAN NEGOTIATORS MAY SEEK TO BOLSTER THEIR ARGUMENTS AGAINST GRANTING MEXICO CITY 5TH FREEDOM RIGHTS TO USG BY CLAIMING THAT CONCESSION WOULD LEAD TO PROLIFERATION OF SIMILAR DEMANDS BY OTHER

COUNTRIES, I.E. PANAMA. IN SUCH CASE, NEITHER USG NOR PANAMA WOULD BENEFIT.

2. ABOVE PROBLEM COULD BE RESOLVED BY AMENDING TEXT OF PROPOSED PANAMA NOTE TO INCLUDE LANGUAGE OF LAST PARAGRAPH OF MEMCON, WHICH CONTAINS SUBSTANTIVE MODIFICATION TO BASIC AGREEMENT. NOTE ALONE WOULD THEN BE PUBLISHED AND POSSIBLE PROBLEM WITH MEXICO WOULD BE AVOIDED. THIS PROCEDURE WOULD HAVE NO EFFECT ON FINAL RESULTS OF US-PANAMA CONSULTATIONS REACHED IN DECEMBER.

3. TEXT OF NEWLY PROPOSED NOTE WOULD BE CHANGED BY INSERTING NEW PARAGRAPH BEFORE CURRENT PARA 3(WHICH BEGINS, "IF THE FOREGOING..."). NEW PARAGRAPH AS FOLLOWS
(TAKEN FROM MEMCON WHICH WOULD NOT BE CHANGED):

"I HAVE THE FURTHER HONOR TO PROPOSE THAT THE ROUTES SPECIFIED IN THE SCHEDULES ATTACHED TO THE ANNEX OF THE AGREEMENT SHOULD BE OPERATED AND PROMOTED AS ROUTES ORIGINATING OR TERMINATING IN THE HOME COUNTRY OF THE AIRLINE PERFORMING THE SERVICE. ACCORDINGLY, SHOULD A DESIGNATED AIRLINE OF EITHER CONTRACTING PARTY PROVIDE A SERVICE TO POINTS BEYOND ITS HOME COUNTRY IN CONNECTION WITH SUCH ROUTES, PUBLIC ADVERTISING OR OTHER FORMS OF PROMOTION BY SUCH AIRLINE SHOULD NOT EMPLOY THE TERMS "SINGLE PLANE" OR "THROUGH SERVICE" OR TERMS OF SIMILAR IMPORT, AND SHOULD STATE THAT SUCH SERVICE IS BY CONNECTING LIMITED OFFICIAL USE

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FLIGHTS, EVEN WHEN FOR OPERATIONAL REASONS A SINGLE AIRCRAFT IS USED. FURTHERMORE, THE FLIGHT NUMBER ASSIGNED TO SERVICES BETWEEN THE UNITED STATES AND PANAMA SHOULD NOT BE THE SAME AS THAT ASSIGNED TO FLIGHTS BEYOND THE HOME COUNTRY OF THE AIRLINE PROMOTING THE SERVICE."

4. EMBASSY AND USDEL TO CIVAIR TALKS IN LIMA REQUESTED TO COMMENT RE ADVISABILITY OF SEEKING ABOVE DESCRIBED

NOTE CHANGE AT THIS TIME IN VIEW OF DIFFICULTIES DESCRIBED
DECISION TO APPROACH GOP WOULD BE MADE AFTER EVALUATION
OF YOUR RESPONSE. KISSINGER

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